S.B. Civil Writ Petition No.5572/2004
(Sudhir Kumar Singh V/s MDS University & Ors.)

Date of Order : 11/12/2004

HON'BLE MR. PRAKASH TATIA,J.

Mr.Sanjeet Purohit, for the petitioner/s

Heard the learned counsel for the petitioner.

The petitioner's case is that he was admitted to the B.Ed. Course in the year 2002-2003 in the Gandhi Sikshak Mahavidhyala, Gulabpura. The petitioner deposited the admission fees also but he met with accident on 5.12.2002, therefore, the petitioner could not attend the classes and the petitioner's prayer for readmission to the course was rejected by the respondents vide order dated 22.7.2003. Since the said order was passed without any notice to the petitioner, therefore, in the writ petition filed by the petitioner as S.B. Civil Writ Petition No. 5124/2003, the respondents were directed to give an opportunity of hearing to the petitioner and order dated 22.7.2003 was quashed.

The respondent College after giving full opportunity of hearing to the petitioner gave a detailed and reasoned order and narrated all the facts on the basis of which the petitioner cannot be admitted to the course of B.Ed., for which he was admitted in the process of admission initiated in the

year 2002.

In view of the reasons given in sub-para (1) to (5) at Pg.2 of the impugned order dated 16.10.2004, I do not find any merit in this writ petition, therefore, the writ petition of the petitioner is dismissed.

(PRAKASH TATIA)J.

Rm/

S.B. Civil Writ Petition No.5578/2004
[Narain Lal & Ors. V/s ADJ (F.T.) No.2 & Ors.]

Date of Order : 11/12/2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. Sudhir Saruparia, for the petitioner/s

Heard learned counsel for the petitioner.

The petitioner is aggrieved against the order dated 30.9.2004, by which the petitioner – plaintiff's application for amendment of plaint by which the petitioner intended to implead the subsequent purchaser of the property in dispute, was dismissed.

According to the learned counsel for the petitioner, there is an interim order, against the original defendant, passed by the trial court that the original defendant shall not dispossess the plaintiff from the property in question. According to the learned counsel for the petitioner, though the principle of lis pendence fully applies in the present case as the property was transferred during the pendency of the suit but the subsequent purchaser has filed the suit for injunction against the petitioner – plaintiff alleging that after purchase of the property he became landlord of the plaintiff and can seek the decree for eviction on the basis of relationship of the landlord and tenant.

It will be worthwhile to mention here that the suit of the plaintiff is at the stage of final

arguments. At this stage, the trial court rightly held that there is no need to implead the subsequent purchaser in the suit as he will be bound by the decree on the basis of principle of lis pendence.

So far as subsequent purchasers filing of the suit for eviction on the basis of the relationship of the landlord is concerned that is to be tried by the trial court in accordance with law and the trial court seized with the suit of the subsequent purchaser on the basis of the relationship may consider all the facts in totality and the plaintiff-petitioner can raise all objection which he could have raised in case the suit would have been filed by the original defendant himself because of the simple reason that by purchase, the subsequent purchaser only came in the position of the original defendant and has not acquired more or better rights.

In view of the above, the apprehension of the plaintiff is ill-founded. Therefore, the writ petition of the petitioner is dismissed.

(PRAKASH TATIA)J.

Rm/